

REMARKS

In the Office Action Claims 28-30 were rejected under 35 U.S.C § 103(a) as being unpatentable over Johnson, U.S. Patent No. 6,535,726 and further in view of Pare et al, U.S. Patent No. 6,269,348.

M.P.E.P 706.02(j), sets one helpful standard for a Section 103 rejection is set forth in which provides:

To establish a *prima facie* case of obviousness . . . the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Applicant respectfully submits that the Johnson reference does not teach or suggest all the limitations of independent claim 28. Particularly, these references, alone or in combination, do not teach or suggest (1) "a vendor device for . . . long range transmission of requests for authorization to the card authorization processor and reception of sales authorization on the same link," or (2) "a purchaser device . . . configured to transmit, receive and store: sales information, authorization validations and receipt information from the vendor device."

First. Johnson does not teach or suggest "long range transmission of requests for authorization directly to the card authorization processor and reception of sales authorization on the same link." Underlining added for emphasis. Johnson explicitly teaches that information is sent from the customer's cellular telephone on one link and is received at the fueling station on a separate cellular link. Column 2, lines 44-46 states that "a cellular billing network by the

customer's cellular telephone and further adapted to receive transaction authorization information from the cellular billing network through a separate cellular link." Column 2, lines 29-33 also states, "ideally, the retail system would additionally have the capability of receiving authorization information from the cellular network through a second cellular link apart from the customer's cellular phone." The first link is between the cell phone and the cellular billing network. However, this link does not extend beyond this to the retail transaction system. The first link ends when "customer information stored in the cellular telephone, is transferred from the cellular telephone to the network." Column 2, lines 65-67. Authorization information, as taught in the Abstract, is then returned "to the fueling station at which the fuel dispenser is located via a cellular link." Please note that this does not say "the cellular link." This is a separate link, a second link. Reference was made by the Examiner to Figure 1A of the Johnson reference. Although the line indicated "cellular link" has arrows on both ends, is clear from a reading of Johnson that the transmission of request for authorization does not occur on this link. Thus, Johnson does not teach or suggest the "on the same link" limitation.

Second. Johnson does not teach or suggest "a purchaser device . . . configured to transmit, receive and store: sales information, authorization validations and receipt information from the vendor device." As explained above, Johnson teaches that authorization information is communicated back to the point of sale system. Column 3, lines 1-4. Thus, in Johnson no sales information, authorization validation or receipt information is received by the user's cell phone, only by the retail transaction system or fuel dispenser. Nor does Johnson teach that a purchaser device (the Johnson cell phone) is configured to transmit sales information, authorization validation and receipt information from the vendor device. Thus, Johnson does not reach or suggest this "purchaser device" limitation.


Thus, Johnson does not teach or suggest all the claim limitations of the present claims. In addition, dependent claims 29 and 30 place further limitations on otherwise allowable subject matter. Accordingly, Applicant respectfully submits that the cited references do not teach or suggest, alone or in combination, the limitations claimed in the present claim set and therefore do not make obvious the claim set provided herein. Thus, Applicant respectfully submits that for at least the reasons provided herein, the claim set as provided herein overcomes all rejections made by the Examiner in the Office Action.

CONCLUSION

Applicant hereby submits that the current claims stand in condition for allowance.

Should there be any further communication though beneficial by the Examiner, the Examiner is respectfully invited to contact the undersigned.

DATED this 5 day of May, 2008.

Sincerely,

Michael F. Krieger
Attorney for Applicant
Registration No.: 35,232

KIRTON & McCONKIE
1800 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111
Telephone: (801) 321-4814
Facsimile: (801) 321-4893